

SENATE BILL 611

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R5

2004 Regular Session
4r1517

By: **Senators Hafer, Astle, Brinkley, Colburn, DeGrange, Della, Dyson,
Exum, Giannetti, Greenip, Haines, Harris, Hooper, Jacobs, Kittleman,
Mooney, Munson, Stoltzfus, and Stone**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Protective Headgear Requirement for Motorcycle Riders -**
3 **Exceptions**

4 FOR the purpose of providing certain exceptions to the prohibition against operating
5 or riding on a motorcycle without certain protective headgear; and generally
6 relating to the requirement that protective headgear be worn by operators or
7 riders of a motorcycle.

8 BY repealing and reenacting, with amendments,
9 Article - Transportation
10 Section 21-1306
11 Annotated Code of Maryland
12 (2002 Replacement Volume and 2003 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Transportation**

16 21-1306.

17 (a) This section does not apply to any person riding in an enclosed cab.

18 (b) (1) THIS SUBSECTION DOES NOT APPLY TO:

19 (I) THE OPERATOR OR OCCUPANT OF ANY THREE-WHEELED
20 MOTORCYCLE EQUIPPED WITH AN ENCLOSED CAB;

21 (II) AN INDIVIDUAL AT LEAST 21 YEARS OLD WHO HAS BEEN
22 LICENSED TO OPERATE A MOTORCYCLE FOR AT LEAST 2 YEARS;

23 (III) AN INDIVIDUAL AT LEAST 21 YEARS OLD WHO HAS COMPLETED
24 A MOTORCYCLE-RIDER SAFETY COURSE APPROVED BY THE ADMINISTRATOR OR BY
25 THE MOTORCYCLE SAFETY FOUNDATION; OR

1 (IV) AN INDIVIDUAL AT LEAST 21 YEARS OLD WHO IS A PASSENGER
2 ON A MOTORCYCLE OPERATED BY AN INDIVIDUAL DESCRIBED IN ITEM (I), (II), OR (III)
3 OF THIS PARAGRAPH.

4 (2) An individual may not operate or ride on a motorcycle unless the
5 individual is wearing protective headgear that meets the standards established by the
6 Administrator.

7 (c) A person may not operate a motorcycle unless:

8 (1) He is wearing an eye-protective device of a type approved by the
9 Administrator; or

10 (2) The motorcycle is equipped with a windscreen.

11 (d) The Administrator:

12 (1) May approve or disapprove protective headgear and eye-protective
13 devices required by this section;

14 (2) May adopt and enforce regulations establishing standards and
15 specifications for the approval of protective headgear and eye-protective devices; and

16 (3) Shall publish lists of all protective headgear and eye-protective
17 devices that he approves, by name and type.

18 (e) (1) The failure of an individual to wear protective headgear required
19 under subsection (b) of this section may not:

20 (i) Be considered evidence of negligence;

21 (ii) Be considered evidence of contributory negligence;

22 (iii) Limit liability of a party or an insurer; or

23 (iv) Diminish recovery for damages arising out of the ownership,
24 maintenance, or operation of a motorcycle.

25 (2) Subject to the provisions of paragraph (3) of this subsection, a party,
26 witness, or counsel may not make reference to protective headgear during a trial of a
27 civil action that involves property damage, personal injury, or death if the damage,
28 injury, or death is not related to the design, manufacture, supplying, or repair of
29 protective headgear.

30 (3) (i) Nothing contained in this subsection may be construed to
31 prohibit the right of a person to institute a civil action for damages against a dealer,
32 manufacturer, distributor, factory branch, or other appropriate entity or person
33 arising out of an incident that involves protective headgear alleged to be defectively
34 designed, manufactured, or repaired.

1 (ii) In a civil action described under subparagraph (i) of this
2 paragraph in which 2 or more parties are named as joint tort-feasors, interpleaded as
3 defendants, or impleaded as defendants, and at least 1 of the joint tort-feasors or
4 defendants is not involved in the design, manufacture, supplying, or repair of
5 protective headgear, a court shall order on a motion of any party separate trials to
6 accomplish the ends of justice.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 June 1, 2004.